

AMENDED IN SENATE JULY 8, 1999
AMENDED IN ASSEMBLY MAY 10, 1999
AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1672

**Introduced by Committee on Judiciary (Kuehl (Chair),
Ackerman (Vice Chair), Aroner, Baugh, Corbett,
Hertzberg, House, Jackson, Knox, Shelley, and Steinberg)**

March 15, 1999

~~An act to amend Section 1260.250 of the Code of Civil Procedure,~~ *act to amend Sections 6400, 6401, 6401.6, 6405, 6411, 22350, 22351, 22351.5, 22353, and 22357 of the Business and Professions Code, to amend Sections 708.160, 995.710, 1260.250, and 2025 of the Code of Civil Procedure, to amend Section 2331 of the Family Code, to amend Section 68511.3 of the Government Code, and to amend Section 45014 of the Public Resources Code, relating to civil actions.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1672, as amended, Committee on Judiciary. Civil actions: eminent domain: waste management.

(1) *Existing law provides, until January 1, 2003, for the registration by the county clerk of legal document assistants and unlawful detainer assistants, as specified; it also provides for the registration by the county clerk of process servers, as specified.*

This bill would revise the exemptions from the registration requirement for legal document assistants, and make clarifying changes; increase from \$25,000 to \$50,000 the bond required of a partnership or corporation for registration as a legal document assistant or unlawful detainer assistant; and create an exemption from the registration of felons as process servers with respect to felons who have been granted a certificate of rehabilitation, expungement, or pardon, and make conforming changes. This bill would also revise the notification and fingerprint card requirements for registration of process servers, and allow a registrant to deposit cash, a check, or a money order in lieu of a surety bond. The bill would also make clarifying changes.

(2) Existing law sets the fee for filing an abstract of judgment at \$12, and at \$20 for filing in a municipal court an abstract of judgment rendered by a judge of another court.

This bill would set the fee for filing an abstract of judgment at the rate for filing in a municipal court an abstract of judgment rendered by a judge of another court.

(3) Existing law generally prohibits a cash or similar deposit in lieu of a surety bond after January 1, 1999.

This bill would limit that prohibition to filings with the Secretary of State.

(4) The existing eminent domain law requires a court, in an eminent domain proceeding, to give the tax collector the legal description of the property sought to be taken and direct the tax collector to certify to the court specified information regarding the property.

This bill would provide that the court in a county where both the auditor and tax collector are elected officials may select either the auditor or tax collector to perform that certification.

(2)

(5) Existing law limits taking multiple depositions of the same person, except as specified.

This bill would revise that exception.

(6) Existing law allows service of a petition for dissolution of marriage or legal separation in the same manner as service of papers in a civil action generally.

This bill would prohibit substitute service of such a petition on the petitioner without a court order authorizing such service.

(7) Existing law requires litigants who apply to a court to proceed in forma pauperis to provide identification to verify the applicants receipt of public assistance.

This bill would expand the means of identification for these purposes.

(8) Existing law, known as the California Integrated Waste Management Act of 1989, authorizes the California Integrated Waste Management Board, along with local enforcement agencies, to carry out specified powers and duties relating to the management of solid waste. The act authorizes the administrative imposition of civil penalties for violations of the act, and provides that any attorney authorized to act on behalf of the local enforcement agency or the board may petition the superior court to impose, assess, and recover civil penalties under the act.

This bill would instead provide that an attorney authorized to act on behalf of the local enforcement agency or the board may apply, to the clerk of the appropriate court in the county in which the civil penalty was imposed, for a judgment to collect the penalty, as specified. The bill would also require the recovery of unpaid filing fees prior to the recovery of any portion of a civil penalty.

(9) By imposing additional duties upon local officials, this bill would create a state-mandated local program.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 6400 of the Business and*
2 *Professions Code, as added by Section 3 of Chapter 1079*
3 *of the Statutes of 1998, is amended to read:*

4 6400. (a) “Unlawful detainer assistant” means any
5 individual who for compensation renders assistance or
6 advice in the prosecution or defense of an unlawful
7 detainer claim or action, including any bankruptcy
8 petition that may affect the unlawful detainer claim or
9 action.

10 (b) “Unlawful detainer claim” means a proceeding,
11 filing, or action affecting rights or liabilities of any person
12 that arises under Chapter 4 (commencing with Section
13 1159) of Title 3 of Part 3 of the Code of Civil Procedure
14 and that contemplates an adjudication by a court.

15 (c) “Legal document assistant” means:

16 (1) Any person who is not exempted under Section
17 6401 and who provides, or assists in providing, or offers to
18 provide, or offers to assist in providing, for compensation,
19 any self-help service to a member of the public who is
20 representing himself or herself in a legal matter, or who
21 holds himself or herself out as someone who offers that
22 service or has that authority. This paragraph shall not
23 apply to any individual whose assistance consists merely
24 of secretarial or receptionist services.

25 (2) A corporation, partnership, association, or other
26 entity that employs or contracts with any person not
27 exempted under Section 6401 who, as part of his or her
28 responsibilities, provides, or assists in providing, or offers
29 to provide, or offers to assist in providing, for
30 compensation, any self-help service to a member of the
31 public who is representing himself or herself in a legal
32 matter or holds himself or herself out as someone who
33 offers that service or has that authority. This paragraph
34 shall not apply to an individual whose assistance consists
35 merely of secretarial or receptionist services.

(d) “Self-help service” means all of the following:

(1) Completing legal documents in a ministerial manner, selected by a person who is representing himself or herself in a legal matter, by typing or otherwise completing the documents at the person’s specific direction.

(2) Providing general published factual information that has been written or approved by an attorney, pertaining to legal procedures, rights, or obligations to a person who is representing himself or herself in a legal matter, to assist the person in representing himself or herself. This service in and of itself, shall not require registration as a legal document assistant.

(3) Making published legal documents available to a person who is representing himself or herself in a legal matter.

(4) Filing and serving legal forms and documents at the specific direction of a person who is representing himself or herself in a legal matter.

(e) “Compensation” means money, property, or anything else of value.

(f) A legal document assistant, *including any legal document assistant employed by a partnership or corporation*, shall not provide any self-help service for compensation after January 1, 2000, unless the legal document assistant is registered in the county in which the services are being provided.

(g) A legal document assistant shall not provide any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or strategies. A legal document assistant shall complete documents only in the manner prescribed by paragraph (3) of subdivision (d).

(h) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

1 SEC. 2. *Section 6401 of the Business and Professions*
2 *Code, as amended by Section 5 of Chapter 1079 of the*
3 *Statutes of 1998, is amended to read:*

4 6401. This chapter does not apply to *any person*
5 *engaged in any of the following occupations, provided*
6 *that the person does not also perform the duties of a legal*
7 *document assistant in addition to those occupations:*

8 (a) Any government employee who is acting in the
9 course of his or her employment.

10 (b) A member of the State Bar of California, or his or
11 her employee, paralegal, or agent, or an independent
12 contractor while acting on behalf of a member of the
13 State Bar.

14 (c) Any employee of a nonprofit, tax-exempt
15 corporation who *either* assists clients free of charge *or is*
16 *supervised by a member of the State Bar of California*
17 *who has malpractice insurance.*

18 (d) A licensed real estate broker or licensed real estate
19 salesperson, as defined in Chapter 3 (commencing with
20 Section 10130) of Part 1 of Division 4, who acts pursuant
21 to subdivision (b) of Section 10131 on an unlawful
22 detainer claim as defined in subdivision (b) of Section
23 6400, and who is a party to the unlawful detainer action.

24 (e) An immigration consultant, as defined in Chapter
25 19.5 (commencing with Section 22441) of Division 8.

26 (f) A person registered as a process server under
27 Chapter 16 (commencing with Section 22350) or a person
28 registered as a professional photocopier under Chapter 20
29 (commencing with Section 22450) of Division 8.

30 (g) A person who provides services relative to the
31 preparation of security instruments or conveyance
32 documents as an integral part of the provision of title or
33 escrow service.

34 (h) A person who provides services that are regulated
35 by federal law.

36 (i) A person who is employed by, and provides services
37 to, a supervised financial institution, holding company,
38 subsidiary or affiliate.

39 (j) This section shall remain in effect only until
40 January 1, 2003, or the date the director suspends the

requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 3. Section 6401.6 of the Business and Professions Code is amended to read:

6401.6. A legal document assistant shall not provide service to a client who requires assistance that exceeds the definition of self-help service in subdivision ~~(b)~~ (d) of Section 6400, and shall inform the client that the client requires the services of an attorney.

This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends that date.

SEC. 4. Section 6405 of the Business and Professions Code is amended to read:

6405. (a) (1) An application for a certificate of registration by an individual shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars (\$25,000).

(2) An application for a certificate of registration by a partnership or corporation shall be accompanied by a bond of fifty thousand dollars (\$50,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to fifty thousand dollars (\$50,000). An application for a certificate of registration by a person employed by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) only when the partnership or corporation has not posted a bond of fifty thousand dollars (\$50,000) as required by this subdivision.

(3) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section

1 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of
2 Civil Procedure.

3 (b) The county clerk shall, upon filing of the bond,
4 deliver the bond forthwith to the county recorder for
5 recording. The recording fee specified in Section 27361 of
6 the Government Code shall be paid by the registrant. The
7 fee may be paid to the county clerk, who shall transmit it
8 to the recorder.

9 (c) The fee for filing, canceling, revoking, or
10 withdrawing the bond is seven dollars (\$7).

11 (d) The county recorder shall record the bond and any
12 notice of cancellation, revocation, or withdrawal of the
13 bond, and shall thereafter mail the instrument, unless
14 specified to the contrary, to the person named in the
15 instrument and, if no person is named, to the party
16 leaving it for recording. The recording fee specified in
17 Section 27361 of the Government Code for notice of
18 cancellation, revocation, or withdrawal of the bond shall
19 be paid to the county clerk, who shall transmit it to the
20 county recorder.

21 (e) In lieu of the bond required by subdivision (a), a
22 registrant may deposit twenty-five thousand dollars
23 (\$25,000) in cash with the county clerk.

24 (f) If the certificate is revoked, the bond or cash
25 deposit shall be returned to the bonding party or
26 depositor subject to subdivision (g) and the right of a
27 person to recover against the bond or cash deposit under
28 Section 6412.

29 (g) The county clerk may retain a cash deposit until
30 the expiration of three years from the date the registrant
31 has ceased to do business, or three years from the
32 expiration or revocation date of the registration, in order
33 to ensure there are no outstanding claims against the
34 deposit. A judge of a municipal or superior court may
35 order the return of the deposit prior to the expiration of
36 three years upon evidence satisfactory to the judge that
37 there are no outstanding claims against the deposit.

38 *SEC. 5. Section 6411 of the Business and Professions*
39 *Code, as amended by Section 21 of Chapter 1079 of the*
40 *Statutes of 1998, is amended to read:*

6411. It is unlawful for any person engaged in the business or acting in the capacity of a legal document assistant or unlawful detainer assistant to do any of the following:

(a) Make false or misleading statements to the consumer concerning the subject matter, legal issues, or self-help service being provided by the legal document assistant or unlawful detainer assistant.

(b) Make any guarantee or promise to a client or prospective client, unless the guarantee or promise is in writing and the legal document assistant or unlawful detainer assistant has a reasonable factual basis for making the guarantee or promise.

(c) Make any statement that the legal document assistant or unlawful detainer assistant can or will obtain favors or has special influence with a court, or a state or federal agency.

(d) Provide assistance or advice which constitutes the unlawful practice of law pursuant to Section 6125, 6126, or 6127.

(e) Engage in the unauthorized practice of law, including, but not limited to, giving any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or strategies. A legal document assistant shall complete documents only in the manner prescribed by ~~paragraph (3) of subdivision (d) of Section 6400.~~

(f) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 6. Section 22350 of the Business and Professions Code is amended to read:

22350. (a) Any natural person who makes more than 10 services of process within this state during one calendar year, for specific compensation or in expectation

1 of specific compensation, where such compensation is
2 directly attributable to the service of process, shall file
3 and maintain a verified certificate of registration as a
4 process server with the county clerk of the county in
5 which he or she resides or has his or her principal place
6 of business. Any corporation or partnership that derives
7 or expects to derive compensation from service of process
8 within this state shall also file and maintain a verified
9 certificate of registration as a process server with the
10 county clerk of the county in which the corporation or
11 partnership has its principal place of business.

12 (b) This chapter shall not apply to any of the following:

13 (1) Any sheriff, marshal, or government employee
14 who is acting within the course and scope of his or her
15 employment.

16 (2) An attorney or his or her employees.

17 (3) Any person who is specially appointed by a court
18 to serve its process.

19 (4) A licensed private investigator or his or her
20 employees.

21 (5) A professional photocopier registered under
22 Section 22450, *or an employee thereof*, whose only
23 service of process relates to subpoenas for the production
24 of records, which subpoenas specify that the records be
25 copied by that registered professional photocopier.

26 SEC. 7. Section 22351 of the Business and Professions
27 Code is amended to read:

28 22351. (a) The certificate of registration of a
29 registrant who is a natural person shall contain the
30 following:

31 (1) The name, age, address, and telephone number of
32 the registrant.

33 (2) A statement, signed by the registrant under
34 penalty of perjury, that the registrant has not been
35 convicted of a felony; *or, if the registrant has been*
36 *convicted of a felony, a copy of a certificate of*
37 *rehabilitation, expungement, or pardon.*

38 (3) A statement that the registrant has been a resident
39 of this state for a period of one year immediately
40 preceding the filing of the certificate.

(4) A statement that the registrant will perform his or her duties as a process server in compliance with the provisions of law governing the service of process in this state.

(b) The certificate of registration of a registrant who is a partnership or corporation shall contain the following:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) A statement, signed by the general partners or officers under penalty of perjury, that the general partners or officers have not been convicted of a felony.

(3) A statement that the partnership or corporation has been organized and existing continuously for a period of one year immediately preceding the filing of the certificate or a responsible managing employee, partner, or officer has been previously registered under this chapter.

(4) A statement that the partnership or corporation will perform its duties as a process server in compliance with the provisions of law governing the service of process in this state.

SEC. 8. Section 22351.5 of the Business and Professions Code is amended to read:

22351.5. (a) At the time of filing the initial certificate of registration, the registrant shall also submit two completed fingerprint cards, for submission to the Department of Justice and the Federal Bureau of Investigation, in order to verify that the registrant has not been convicted of a felony. *The clerk shall utilize the Subsequent Arrest Notification Contract provided by the Department of Justice for notifications subsequent to the initial certificate of registration. If however, the clerk was not under contract with the Department of Justice at the time the initial certificate was filed, registrants shall be required to submit new fingerprint cards at the time of renewal until the notification contract is in place.*

(b) If, after processing the completed fingerprint cards, the clerk is advised that the registrant has been convicted of a felony, the presiding judge of the Superior Court of the county in which the certificate of registration

1 is maintained is authorized to review the criminal record
2 and, *unless the registrant is able to produce a copy of a*
3 *certificate of rehabilitation, expungement, or pardon, as*
4 *specified in paragraph (2) of subdivision (a) of Section*
5 *22351, notify the registrant that the registration is*
6 *revoked. An order to show cause for contempt may be*
7 *issued and served upon any person who fails to surrender*
8 *a registered process server identification card after a*
9 *notice of revocation.*

10 SEC. 9. Section 22353 of the Business and Professions
11 Code is amended to read:

12 22353. (a) A certificate of registration shall be
13 accompanied by a bond of two thousand dollars (\$2,000)
14 which is executed by an admitted surety insurer and
15 conditioned upon compliance with the provisions of this
16 chapter and all laws governing the service of process in
17 this state. The total aggregate liability on the bond is
18 limited to two thousand dollars (\$2,000). *As an alternative*
19 *to the bond, the registrant may deposit with the clerk,*
20 *cash, a check, or money order in the amount of two*
21 *thousand dollars (\$2,000).*

22 (b) The county clerk shall, upon filing the bond,
23 deliver the bond forthwith to the county recorder for
24 recording. The recording fee specified in Section 27361 of
25 the Government Code shall be paid by the registered
26 professional process server. The fee may be paid to the
27 county clerk, who shall transmit it to the recorder.

28 (c) The fee for filing, canceling, revoking, or
29 withdrawing the bond is seven dollars (\$7).

30 (d) The county recorder shall record the bond and any
31 notice of cancellation, revocation, or withdrawal of the
32 bond, and shall thereafter mail the instrument, unless
33 specified to the contrary, to the person named in the
34 instrument and, if no person is named, to the party
35 leaving it for recording. The recording fee specified in
36 Section 27361 of the Government Code for the notice of
37 cancellation, revocation, or withdrawal of the bond shall
38 be paid to the county clerk, who shall transmit it to the
39 county recorder.

1 *SEC. 10. Section 22357 of the Business and Professions*
2 *Code is amended to read:*

3 22357. (a) Any person who recovers damages in any
4 action or proceeding for injuries caused by a service of
5 process which was made by a registrant and did not
6 comply with the provisions of law governing the service
7 of process in this state may recover the amount of the
8 damages from the bond required by Section 22353.

9 (b) Whenever there has been a recovery against a
10 bond under subdivision (a), the registrant shall file a new
11 bond *or cash deposit* within 30 days to reinstate the bond
12 or cash deposit to the amount required by Section 22353.
13 If the registrant does not file the bond within 30 days, the
14 certificate of registration shall be revoked and the
15 remainder of the bond forfeited to the county treasury.

16 *SEC. 11. Section 708.160 of the Code of Civil*
17 *Procedure is amended to read:*

18 708.160. (a) Except as otherwise provided in this
19 section, the proper court for examination of a person
20 under this article is the court in which the money
21 judgment is entered.

22 (b) A person sought to be examined may not be
23 required to attend an examination before a court located
24 outside the county in which the person resides or has a
25 place of business unless the distance from the person's
26 place of residence or place of business to the place of
27 examination is less than 150 miles.

28 (c) If a person sought to be examined does not reside
29 or have a place of business in the county where the
30 judgment is entered, a court of similar jurisdiction in the
31 county where the person resides or has a place of business
32 is a proper court for examination of the person. If there
33 is no court of similar jurisdiction in the county, a court of
34 higher jurisdiction is a proper court.

35 (d) If the judgment creditor seeks an examination of
36 a person before a court other than the court in which the
37 judgment is entered, the judgment creditor shall do all of
38 the following:

1 (1) File with the court from which the order is sought
2 an abstract of judgment in the form prescribed by Section
3 674.

4 (2) Present to the court an affidavit in support of the
5 application for the order stating the place of residence or
6 place of business of the person sought to be examined.

7 (3) Make any necessary affidavit or showing for the
8 examination as required by Section 708.110 or 708.120.

9 (4) At the time of filing the abstract of judgment, pay
10 ~~a the filing fee of twelve dollars (\$12) specified in Section~~
11 ~~72059 of the Government Code.~~ No law library fee shall
12 be charged.

13 *SEC. 12. Section 995.710 of the Code of Civil*
14 *Procedure is amended to read:*

15 995.710. (a) Except as provided in subdivision (e) or
16 to the extent the statute providing for a bond precludes
17 a deposit in lieu of bond or limits the form of deposit, the
18 principal may, ~~until January 1, 1999,~~ instead of giving a
19 bond, deposit with the officer any of the following:

20 (1) Lawful money of the United States. The money
21 shall be maintained by the officer in an interest-bearing
22 trust account.

23 (2) Bearer bonds or bearer notes of the United States
24 or the State of California.

25 (3) Certificates of deposit payable to the officer, not
26 exceeding the federally insured amount, issued by banks
27 or savings associations authorized to do business in this
28 state and insured by the Federal Deposit Insurance
29 Corporation.

30 (4) Savings accounts assigned to the officer, not
31 exceeding the federally insured amount, together with
32 evidence of the deposit in the savings accounts with banks
33 authorized to do business in this state and insured by the
34 Federal Deposit Insurance Corporation.

35 (5) Investment certificates or share accounts assigned
36 to the officer, not exceeding the federally insured
37 amount, issued by savings associations authorized to do
38 business in this state and insured by the Federal Deposit
39 Insurance Corporation.

(6) Certificates for funds or share accounts assigned to the officer, not exceeding the guaranteed amount, issued by a credit union, as defined in Section 14002 of the Financial Code, whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Financial Institutions.

(b) The deposit shall be in an amount or have a face value, or in the case of bearer bonds or bearer notes have a market value, equal to or in excess of the amount that would be required to be secured by the bond if the bond were given by an admitted surety insurer. Notwithstanding any other provision of this chapter, in the case of a deposit of bearer bonds or bearer notes other than in an action or proceeding, the officer may, in the officer's discretion, require that the amount of the deposit be determined not by the market value of the bonds or notes but by a formula based on the principal amount of the bonds or notes.

(c) The deposit shall be accompanied by an agreement executed by the principal authorizing the officer to collect, sell, or otherwise apply the deposit to enforce the liability of the principal on the deposit. The agreement shall include the address at which the principal may be served with notices, papers, and other documents under this chapter.

(d) The officer may prescribe terms and conditions to implement this section.

~~(e) As specified in subdivision (a), this~~ *This* section may not be utilized after January 1, 1999, ~~for deposits with the Secretary of State.~~ Any principal who made a deposit ~~with the Secretary of State~~ pursuant to this section prior to January 1, 1999, may continue to utilize that deposit in lieu of a bond pursuant to this section and the statute that prescribes a bond; however, the deposit shall not be renewable pursuant to this section.

SEC. 13. Section 1260.250 of the Code of Civil Procedure is amended to read:

1260.250. (a) In a county where both the auditor and the tax collector are elected officials, the court shall by

1 order give the auditor or tax collector the legal
2 description of the property sought to be taken and direct
3 the auditor or tax collector to certify to the court the
4 information required by subdivision (c), and the auditor
5 or tax collector shall promptly certify the required
6 information to the court. In all other counties, the court
7 shall by order give the tax collector the legal description
8 of the property sought to be taken and direct the tax
9 collector to certify to the court the information required
10 by subdivision (c), and the tax collector shall promptly
11 certify the required information to the court.

12 (b) The court order shall be made on or before the
13 earliest of the following dates:

14 (1) The date the court makes an order for possession.

15 (2) The date set for trial.

16 (3) The date of entry of judgment.

17 (c) The court order shall require certification of the
18 following information:

19 (1) The current assessed value of the property
20 together with its assessed identification number.

21 (2) All unpaid taxes on the property, and any penalties
22 and costs that have accrued thereon while on the secured
23 roll, levied for prior tax years that constitute a lien on the
24 property.

25 (3) All unpaid taxes on the property, and any penalties
26 and costs that have accrued thereon while on the secured
27 roll, levied for the current tax year that constitute a lien
28 on the property prorated to, but not including, the date
29 of apportionment determined pursuant to Section 5082 of
30 the Revenue and Taxation Code or the date of trial,
31 whichever is earlier. If the amount of the current taxes is
32 not ascertainable at the time of proration, the amount
33 shall be estimated and computed based on the assessed
34 value for the current assessment year and the tax rate
35 levied on the property for the immediately prior tax year.

36 (4) The actual or estimated amount of taxes on the
37 property that are or will become a lien on the property
38 in the next succeeding tax year prorated to, but not
39 including, the date of apportionment determined
40 pursuant to Section 5082 of the Revenue and Taxation

1 Code or the date of trial, whichever is earlier. Any
2 estimated amount of taxes shall be computed based on
3 the assessed value of the property for the current
4 assessment year and the tax rate levied on the property
5 for the current tax year.

6 (5) The amount of the taxes, penalties, and costs
7 allocable to one day of the current tax year, and where
8 applicable, the amount allocable to one day of the next
9 succeeding tax year, hereinafter referred to as the “daily
10 prorate.”

11 (6) The total of paragraphs (2), (3), and (4).

12 (d) If the property sought to be taken does not have
13 a separate valuation on the assessment roll, the
14 information required by this section shall be for the larger
15 parcel of which the property is a part.

16 (e) The court, as part of the judgment, shall separately
17 state the amount certified pursuant to this section and
18 order that the amount be paid to the tax collector from
19 the award. If the amount so certified is prorated to the
20 date of trial, the order shall include, in addition to the
21 amount so certified, an amount equal to the applicable
22 daily prorate multiplied by the number of days
23 commencing on the date of trial and ending on and
24 including the day before the date of apportionment
25 determined pursuant to Section 5082 of the Revenue and
26 Taxation Code.

27 (f) Notwithstanding any other provision of this
28 section, if the board of supervisors provides the
29 procedure set forth in Section 5087 of the Revenue and
30 Taxation Code, the court shall make no award of taxes in
31 the judgment.

32 ~~SEC. 2.~~

33 *SEC. 14. Section 2025 of the Code of Civil Procedure*
34 *is amended to read:*

35 2025. (a) Any party may obtain discovery within the
36 scope delimited by Section 2017, and subject to the
37 restrictions set forth in Section 2019, by taking in
38 California the oral deposition of any person, including any
39 party to the action. The person deposed may be a natural
40 person, an organization such as a public or private

1 corporation, a partnership, an association, or a
2 governmental agency.

3 (b) Subject to subdivisions (f) and (t), an oral
4 deposition may be taken as follows:

5 (1) The defendant may serve a deposition notice
6 without leave of court at any time after that defendant
7 has been served or has appeared in the action, whichever
8 occurs first.

9 (2) The plaintiff may serve a deposition notice without
10 leave of court on any date that is 20 days after the service
11 of the summons on, or appearance by, any defendant.
12 However, on motion with or without notice, the court, for
13 good cause shown, may grant to a plaintiff leave to serve
14 a deposition notice on an earlier date.

15 (c) A party desiring to take the oral deposition of any
16 person shall give notice in writing in the manner set forth
17 in subdivision (d). However, where under subdivision
18 (d) of Section 2020 only the production by a nonparty of
19 business records for copying is desired, a copy of the
20 deposition subpoena shall serve as the notice of
21 deposition. The notice of deposition shall be given to
22 every other party who has appeared in the action. The
23 deposition notice, or the accompanying proof of service,
24 shall list all the parties or attorneys for parties on whom
25 it is served.

26 Where, as defined in subdivision (a) of Section 1985.3,
27 the party giving notice of the deposition is a subpoenaing
28 party, and the deponent is a witness commanded by a
29 deposition subpoena to produce personal records of a
30 consumer, the subpoenaing party shall serve on that
31 consumer (1) a notice of the deposition, (2) the notice of
32 privacy rights specified in subdivision (e) of Section
33 1985.3 and in Section 1985.6, and (3) a copy of the
34 deposition subpoena.

35 (d) The deposition notice shall state all of the
36 following:

37 (1) The address where the deposition will be taken.

38 (2) The date of the deposition, selected under
39 subdivision (f), and the time it will commence.



1 (3) The name of each deponent, and the address and
2 telephone number, if known, of any deponent who is not
3 a party to the action. If the name of the deponent is not
4 known, the deposition notice shall set forth instead a
5 general description sufficient to identify the person or
6 particular class to which the person belongs.

7 (4) The specification with reasonable particularity of
8 any materials or category of materials to be produced by
9 the deponent.

10 (5) Any intention to record the testimony by
11 audiotape or videotape, in addition to recording the
12 testimony by the stenographic method as required by
13 paragraph (1) of subdivision (l) and any intention to
14 record the testimony by stenographic method, through
15 the instant visual display of the testimony. In the latter
16 event, a copy of the deposition notice shall also be given
17 to the deposition officer. Any offer to provide the instant
18 visual display of the testimony or to provide rough draft
19 transcripts to any party which is accepted prior to, or
20 offered at, the deposition shall also be made by the
21 deposition officer at the deposition to all parties in
22 attendance.

23 (6) Any intention to reserve the right to use at trial a
24 videotape deposition of a treating or consulting physician
25 or of any expert witness under paragraph (4) of
26 subdivision (u). In this event, the operator of the
27 videotape camera shall be a person who is authorized to
28 administer an oath, and shall not be financially interested
29 in the action or be a relative or employee of any attorney
30 of any of the parties.

31 If the deponent named is not a natural person, the
32 deposition notice shall describe with reasonable
33 particularity the matters on which examination is
34 requested. In that event, the deponent shall designate
35 and produce at the deposition those of its officers,
36 directors, managing agents, employees, or agents who are
37 most qualified to testify on its behalf as to those matters
38 to the extent of any information known or reasonably
39 available to the deponent. A deposition subpoena shall
40 advise a nonparty deponent of its duty to make this

1 designation, and shall describe with reasonable
2 particularity the matters on which examination is
3 requested.

4 If the attendance of the deponent is to be compelled by
5 service of a deposition subpoena under Section 2020, an
6 identical copy of that subpoena shall be served with the
7 deposition notice.

8 (e) (1) The deposition of a natural person, whether or
9 not a party to the action, shall be taken at a place that is,
10 at the option of the party giving notice of the deposition,
11 either within 75 miles of the deponent's residence, or
12 within the county where the action is pending and within
13 150 miles of the deponent's residence, unless the court
14 orders otherwise under paragraph (3).

15 (2) The deposition of an organization that is a party to
16 the action shall be taken at a place that is, at the option
17 of the party giving notice of the deposition, either within
18 75 miles of the organization's principal executive or
19 business office in California, or within the county where
20 the action is pending and within 150 miles of that office.
21 The deposition of any other organization shall be taken
22 within 75 miles of the organization's principal executive
23 or business office in California, unless the organization
24 consents to a more distant place. If the organization has
25 not designated a principal executive or business office in
26 California, the deposition shall be taken at a place that is,
27 at the option of the party giving notice of the deposition,
28 either within the county where the action is pending, or
29 within 75 miles of any executive or business office in
30 California of the organization.

31 (3) A party desiring to take the deposition of a natural
32 person who is a party to the action or an officer, director,
33 managing agent, or employee of a party may make a
34 motion for an order that the deponent attend for
35 deposition at a place that is more distant than that
36 permitted under paragraph (1). This motion shall be
37 accompanied by a declaration stating facts showing a
38 reasonable and good faith attempt at an informal
39 resolution of any issue presented by the motion.



1 In exercising its discretion to grant or deny this motion,
2 the court shall take into consideration any factor tending
3 to show whether the interests of justice will be served by
4 requiring the deponent's attendance at that more distant
5 place, including, but not limited to, the following:

6 (A) Whether the moving party selected the forum.

7 (B) Whether the deponent will be present to testify at
8 the trial of the action.

9 (C) The convenience of the deponent.

10 (D) The feasibility of conducting the deposition by
11 written questions under Section 2028, or of using a
12 discovery method other than a deposition.

13 (E) The number of depositions sought to be taken at
14 a place more distant than that permitted under
15 paragraph (1).

16 (F) The expense to the parties of requiring the
17 deposition to be taken within the distance permitted
18 under paragraph (1).

19 (G) The whereabouts of the deponent at the time for
20 which the deposition is scheduled.

21 The order may be conditioned on the advancement by
22 the moving party of the reasonable expenses and costs to
23 the deponent for travel to the place of deposition.

24 The court shall impose a monetary sanction under
25 Section 2023 against any party, person, or attorney who
26 unsuccessfully makes or opposes a motion to increase
27 travel limits for party deponent, unless it finds that the
28 one subject to the sanction acted with substantial
29 justification or that other circumstances make the
30 imposition of the sanction unjust.

31 (f) An oral deposition shall be scheduled for a date at
32 least 10 days after service of the deposition notice. If, as
33 defined in subdivision (a) of Section 1985.3, the party
34 giving notice of the deposition is a subpoenaing party, and
35 the deponent is a witness commanded by a deposition
36 subpoena to produce personal records of a consumer, the
37 deposition shall be scheduled for a date at least 20 days
38 after issuance of that subpoena. However, in unlawful
39 detainer actions, an oral deposition shall be scheduled for

1 a date at least five days after service of the deposition
2 notice, but not later than five days before trial.

3 On motion or ex parte application of any party or
4 deponent, for good cause shown, the court may shorten
5 or extend the time for scheduling a deposition, or may
6 stay its taking until the determination of a motion for a
7 protective order under subdivision (i).

8 (g) Any party served with a deposition notice that
9 does not comply with subdivisions (b) to (f), inclusive,
10 waives any error or irregularity unless that party
11 promptly serves a written objection specifying that error
12 or irregularity at least three calendar days prior to the
13 date for which the deposition is scheduled, on the party
14 seeking to take the deposition and any other attorney or
15 party on whom the deposition notice was served. If an
16 objection is made three calendar days before the
17 deposition date, the objecting party shall make personal
18 service of that objection pursuant to Section 1011 on the
19 party who gave notice of the deposition. Any deposition
20 taken after the service of a written objection shall not be
21 used against the objecting party under subdivision (u) if
22 the party did not attend the deposition and if the court
23 determines that the objection was a valid one.

24 In addition to serving this written objection, a party
25 may also move for an order staying the taking of the
26 deposition and quashing the deposition notice. This
27 motion shall be accompanied by a declaration stating
28 facts showing a reasonable and good faith attempt at an
29 informal resolution of any issue presented by the motion.
30 The taking of the deposition is stayed pending the
31 determination of this motion.

32 The court shall impose a monetary sanction under
33 Section 2023 against any party, person, or attorney who
34 unsuccessfully makes or opposes a motion to quash a
35 deposition notice, unless it finds that the one subject to
36 the sanction acted with substantial justification or that
37 other circumstances make the imposition of the sanction
38 unjust.

39 (h) (1) The service of a deposition notice under
40 subdivision (c) is effective to require any deponent who

1 is a party to the action or an officer, director, managing
2 agent, or employee of a party to attend and to testify, as
3 well as to produce any document or tangible thing for
4 inspection and copying.

5 (2) The attendance and testimony of any other
6 deponent, as well as the production by the deponent of
7 any document or tangible thing for inspection and
8 copying, requires the service on the deponent of a
9 deposition subpoena under Section 2020.

10 (i) Before, during, or after a deposition, any party, any
11 deponent, or any other affected natural person or
12 organization may promptly move for a protective order.
13 The motion shall be accompanied by a declaration stating
14 facts showing a reasonable and good faith attempt at an
15 informal resolution of each issue presented by the motion.

16 The court, for good cause shown, may make any order
17 that justice requires to protect any party, deponent, or
18 other natural person or organization from unwarranted
19 annoyance, embarrassment, or oppression, or undue
20 burden and expense. This protective order may include,
21 but is not limited to, one or more of the following
22 directions:

23 (1) That the deposition not be taken at all.

24 (2) That the deposition be taken at a different time.

25 (3) That a videotape deposition of a treating or
26 consulting physician or of any expert witness, intended
27 for possible use at trial under paragraph (4) of subdivision
28 (u), be postponed until the moving party has had an
29 adequate opportunity to prepare, by discovery
30 deposition of the deponent, or other means, for
31 cross-examination.

32 (4) That the deposition be taken at a place other than
33 that specified in the deposition notice, if it is within a
34 distance permitted by subdivision (e).

35 (5) That the deposition be taken only on certain
36 specified terms and conditions.

37 (6) That the deponent's testimony be taken by
38 written, instead of oral, examination.

39 (7) That the method of discovery be interrogatories to
40 a party instead of an oral deposition.

1 (8) That the testimony be recorded in a manner
2 different from that specified in the deposition notice.

3 (9) That certain matters not be inquired into.

4 (10) That the scope of the examination be limited to
5 certain matters.

6 (11) That all or certain of the writings or tangible
7 things designated in the deposition notice not be
8 produced, inspected, or copied.

9 (12) That designated persons, other than the parties to
10 the action and their officers and counsel, be excluded
11 from attending the deposition.

12 (13) That a trade secret or other confidential research,
13 development, or commercial information not be
14 disclosed or be disclosed only to specified persons or only
15 in a specified way.

16 (14) That the parties simultaneously file specified
17 documents enclosed in sealed envelopes to be opened as
18 directed by the court.

19 (15) That the deposition be sealed and thereafter
20 opened only on order of the court.

21 If the motion for a protective order is denied in whole
22 or in part, the court may order that the deponent provide
23 or permit the discovery against which protection was
24 sought on those terms and conditions that are just.

25 The court shall impose a monetary sanction under
26 Section 2023 against any party, person, or attorney who
27 unsuccessfully makes or opposes a motion for a protective
28 order, unless it finds that the one subject to the sanction
29 acted with substantial justification or that other
30 circumstances make the imposition of the sanction unjust.

31 (j) (1) If the party giving notice of a deposition fails to
32 attend or proceed with it, the court shall impose a
33 monetary sanction under Section 2023 against that party,
34 or the attorney for that party, or both, and in favor of any
35 party attending in person or by attorney, unless it finds
36 that the one subject to the sanction acted with substantial
37 justification or that other circumstances make the
38 imposition of the sanction unjust.

39 (2) If a deponent does not appear for a deposition
40 because the party giving notice of the deposition failed to

1 serve a required deposition subpoena, the court shall
2 impose a monetary sanction under Section 2023 against
3 that party, or the attorney for that party, or both, in favor
4 of any other party who, in person or by attorney, attended
5 at the time and place specified in the deposition notice in
6 the expectation that the deponent's testimony would be
7 taken, unless the court finds that the one subject to the
8 sanction acted with substantial justification or that other
9 circumstances make the imposition of the sanction unjust.

10 If a deponent on whom a deposition subpoena has been
11 served fails to attend a deposition or refuses to be sworn
12 as a witness, the court may impose on the deponent the
13 sanctions described in subdivision (h) of Section 2020.

14 (3) If, after service of a deposition notice, a party to the
15 action or an officer, director, managing agent, or
16 employee of a party, or a person designated by an
17 organization that is a party under subdivision (d),
18 without having served a valid objection under subdivision
19 (g), fails to appear for examination, or to proceed with it,
20 or to produce for inspection any document or tangible
21 thing described in the deposition notice, the party giving
22 the notice may move for an order compelling the
23 deponent's attendance and testimony, and the
24 production for inspection of any document or tangible
25 thing described in the deposition notice. This motion (A)
26 shall set forth specific facts showing good cause justifying
27 the production for inspection of any document or
28 tangible thing described in the deposition notice, and (B)
29 shall be accompanied by a declaration stating facts
30 showing a reasonable and good faith attempt at an
31 informal resolution of each issue presented by it or, when
32 the deponent fails to attend the deposition and produce
33 the documents or things described in the deposition
34 notice, by a declaration stating that the petitioner has
35 contacted the deponent to inquire about the
36 nonappearance. If this motion is granted, the court shall
37 also impose a monetary sanction under Section 2023
38 against the deponent or the party with whom the
39 deponent is affiliated, unless it finds that the one subject
40 to the sanction acted with substantial justification or that

1 other circumstances make the imposition of the sanction
2 unjust. On motion of any other party who, in person or by
3 attorney, attended at the time and place specified in the
4 deposition notice in the expectation that the deponent's
5 testimony would be taken, the court shall also impose a
6 monetary sanction under Section 2023, unless it finds that
7 the one subject to the sanction acted with substantial
8 justification or that other circumstances make the
9 imposition of the sanction unjust.

10 If that party or party-affiliated deponent then fails to
11 obey an order compelling attendance, testimony, and
12 production, the court may make those orders that are just,
13 including the imposition of an issue sanction, an evidence
14 sanction, or a terminating sanction under Section 2023
15 against that party deponent or against the party with
16 whom the deponent is affiliated. In lieu of or in addition
17 to this sanction, the court may impose a monetary
18 sanction under Section 2023 against that deponent or
19 against the party with whom that party deponent is
20 affiliated, and in favor of any party who, in person or by
21 attorney, attended in the expectation that the deponent's
22 testimony would be taken pursuant to that order.

23 (k) Except as provided in paragraph (3) of subdivision
24 (d) of Section 2020, the deposition shall be conducted
25 under the supervision of an officer who is authorized to
26 administer an oath. This officer shall not be financially
27 interested in the action and shall not be a relative or
28 employee of any attorney of any of the parties, or of any
29 of the parties. Any objection to the qualifications of the
30 deposition officer is waived unless made before the
31 deposition begins or as soon thereafter as the ground for
32 that objection becomes known or could be discovered by
33 reasonable diligence.

34 (l) (1) The deposition officer shall put the deponent
35 under oath. Unless the parties agree or the court orders
36 otherwise, the testimony, as well as any stated objections,
37 shall be taken stenographically. The party noticing the
38 deposition may also record the testimony by audiotape or
39 videotape if the notice of deposition stated an intention
40 also to record the testimony by either of those methods,



1 or if all the parties agree that the testimony may also be
2 recorded by either of those methods. Any other party, at
3 that party's expense, may make a simultaneous audiotape
4 or videotape record of the deposition, provided that other
5 party promptly, and in no event less than three calendar
6 days before the date for which the deposition is
7 scheduled, serves a written notice of this intention to
8 audiotape or videotape the deposition testimony on the
9 party or attorney who noticed the deposition, on all other
10 parties or attorneys on whom the deposition notice was
11 served under subdivision (c), and on any deponent whose
12 attendance is being compelled by a deposition subpoena
13 under Section 2020. If this notice is given three calendar
14 days before the deposition date, it shall be made by
15 personal service under Section 1011. Examination and
16 cross-examination of the deponent shall proceed as
17 permitted at trial under the provisions of the Evidence
18 Code.

19 (2) If the deposition is being recorded by means of
20 audiotape or videotape, the following procedure shall be
21 observed:

22 (A) The area used for recording the deponent's oral
23 testimony shall be suitably large, adequately lighted, and
24 reasonably quiet.

25 (B) The operator of the recording equipment shall be
26 competent to set up, operate, and monitor the equipment
27 in the manner prescribed in this subdivision. The
28 operator may be an employee of the attorney taking the
29 deposition unless the operator is also the deposition
30 officer. However, if a videotape of deposition testimony
31 is to be used under paragraph (4) of subdivision (u), the
32 operator of the recording equipment shall be a person
33 who is authorized to administer an oath, and shall not be
34 financially interested in the action or be a relative or
35 employee of any attorney of any of the parties, unless all
36 parties attending the deposition agree on the record to
37 waive these qualifications and restrictions.

38 (C) The operator shall not distort the appearance or
39 the demeanor of participants in the deposition by the use
40 of camera or sound recording techniques.

1 (D) The deposition shall begin with an oral or written
2 statement on camera or on the audiotape that includes
3 the operator's name and business address, the name and
4 business address of the operator's employer, the date,
5 time, and place of the deposition, the caption of the case,
6 the name of the deponent, a specification of the party on
7 whose behalf the deposition is being taken, and any
8 stipulations by the parties.

9 (E) Counsel for the parties shall identify themselves
10 on camera or on the audiotape.

11 (F) The oath shall be administered to the deponent on
12 camera or on the audiotape.

13 (G) If the length of a deposition requires the use of
14 more than one unit of tape, the end of each unit and the
15 beginning of each succeeding unit shall be announced on
16 camera or on the audiotape.

17 (H) At the conclusion of a deposition, a statement shall
18 be made on camera or on the audiotape that the
19 deposition is ended and shall set forth any stipulations
20 made by counsel concerning the custody of the audiotape
21 or videotape recording and the exhibits, or concerning
22 other pertinent matters.

23 (I) A party intending to offer an audiotaped or
24 videotaped recording of a deposition in evidence under
25 subdivision (u) shall notify the court and all parties in
26 writing of that intent and of the parts of the deposition to
27 be offered within sufficient time for objections to be
28 made and ruled on by the judge to whom the case is
29 assigned for trial or hearing, and for any editing of the
30 tape. Objections to all or part of the deposition shall be
31 made in writing. The court may permit further
32 designations of testimony and objections as justice may
33 require. With respect to those portions of an audiotaped
34 or videotaped deposition that are not designated by any
35 party or that are ruled to be objectionable, the court may
36 order that the party offering the recording of the
37 deposition at the trial or hearing suppress those portions,
38 or that an edited version of the deposition tape be
39 prepared for use at the trial or hearing. The original
40 audiotape or videotape of the deposition shall be

1 preserved unaltered. If no stenographic record of the
2 deposition testimony has previously been made, the party
3 offering a videotape or an audiotape recording of that
4 testimony under subdivision (u) shall accompany that
5 offer with a stenographic transcript prepared from that
6 recording.

7 (3) In lieu of participating in the oral examination,
8 parties may transmit written questions in a sealed
9 envelope to the party taking the deposition for delivery
10 to the deposition officer, who shall unseal the envelope
11 and propound them to the deponent after the oral
12 examination has been completed.

13 (m) (1) The protection of information from discovery
14 on the ground that it is privileged or that it is protected
15 work product under Section 2018 is waived unless a
16 specific objection to its disclosure is timely made during
17 the deposition.

18 (2) Errors and irregularities of any kind occurring at
19 the oral examination that might be cured if promptly
20 presented are waived unless a specific objection to them
21 is timely made during the deposition. These errors and
22 irregularities include, but are not limited to, those
23 relating to the manner of taking the deposition, to the
24 oath or affirmation administered, to the conduct of a
25 party, attorney, deponent, or deposition officer, or to the
26 form of any question or answer. Unless the objecting
27 party demands that the taking of the deposition be
28 suspended to permit a motion for a protective order
29 under subdivision (n), the deposition shall proceed
30 subject to the objection.

31 (3) Objections to the competency of the deponent, or
32 to the relevancy, materiality, or admissibility at trial of the
33 testimony or of the materials produced are unnecessary
34 and are not waived by failure to make them before or
35 during the deposition.

36 (4) If a deponent fails to answer any question or to
37 produce any document or tangible thing under the
38 deponent's control that is specified in the deposition
39 notice or a deposition subpoena, the party seeking that
40 answer or production may adjourn the deposition or

1 complete the examination on other matters without
2 waiving the right at a later time to move for an order
3 compelling that answer or production under subdivision
4 (o).

5 (n) The deposition officer shall not suspend the taking
6 of testimony without stipulation of the party conducting
7 the deposition and the deponent unless any party
8 attending the deposition or the deponent demands the
9 taking of testimony be suspended to enable that party or
10 deponent to move for a protective order on the ground
11 that the examination is being conducted in bad faith or in
12 a manner that unreasonably annoys, embarrasses, or
13 oppresses that deponent or party. This motion shall be
14 accompanied by a declaration stating facts showing a
15 reasonable and good faith attempt at an informal
16 resolution of each issue presented by the motion. The
17 court, for good cause shown, may terminate the
18 examination or may limit the scope and manner of taking
19 the deposition as provided in subdivision (i). If the order
20 terminates the examination, the deposition shall not
21 thereafter be resumed, except on order of the court.

22 The court shall impose a monetary sanction under
23 Section 2023 against any party, person, or attorney who
24 unsuccessfully makes or opposes a motion for this
25 protective order, unless it finds that the one subject to the
26 sanction acted with substantial justification or that other
27 circumstances make the imposition of the sanction unjust.

28 (o) If a deponent fails to answer any question or to
29 produce any document or tangible thing under the
30 deponent's control that is specified in the deposition
31 notice or a deposition subpoena, the party seeking
32 discovery may move the court for an order compelling
33 that answer or production. This motion shall be made no
34 later than 60 days after the completion of the record of the
35 deposition, and shall be accompanied by a declaration
36 stating facts showing a reasonable and good faith attempt
37 at an informal resolution of each issue presented by the
38 motion. Notice of this motion shall be given to all parties,
39 and to the deponent either orally at the examination, or
40 by subsequent service in writing. If the notice of the

1 motion is given orally, the deposition officer shall direct
2 the deponent to attend a session of the court at the time
3 specified in the notice. Not less than five days prior to the
4 hearing on this motion, the moving party shall lodge with
5 the court a certified copy of any parts of the stenographic
6 transcript of the deposition that are relevant to the
7 motion. If a deposition is recorded by audiotape or
8 videotape, the moving party is required to lodge a
9 certified copy of a transcript of any parts of the deposition
10 that are relevant to the motion. If the court determines
11 that the answer or production sought is subject to
12 discovery, it shall order that the answer be given or the
13 production be made on the resumption of the deposition.

14 The court shall impose a monetary sanction under
15 Section 2023 against any party, person, or attorney who
16 unsuccessfully makes or opposes a motion to compel
17 answer or production, unless it finds that the one subject
18 to the sanction acted with substantial justification or that
19 other circumstances make the imposition of the sanction
20 unjust.

21 If a deponent fails to obey an order entered under this
22 subdivision, the failure may be considered a contempt of
23 court. In addition, if the disobedient deponent is a party
24 to the action or an officer, director, managing agent, or
25 employee of a party, the court may make those orders
26 that are just against the disobedient party, or against the
27 party with whom the disobedient deponent is affiliated,
28 including the imposition of an issue sanction, an evidence
29 sanction, or a terminating sanction under Section 2023. In
30 lieu of or in addition to this sanction, the court may
31 impose a monetary sanction under Section 2023 against
32 that party deponent or against any party with whom the
33 deponent is affiliated.

34 (p) Unless the parties agree otherwise, the testimony
35 at any deposition recorded by stenographic means shall
36 be transcribed. The party noticing the deposition shall
37 bear the cost of that transcription, unless the court, on
38 motion and for good cause shown, orders that the cost be
39 borne or shared by another party. Any other party, at that
40 party's expense, may obtain a copy of the transcript. If the

1 deposition officer receives a request from a party for an
2 original or a copy of the deposition transcript, or any
3 portion thereof, and the document will be available to
4 that party prior to the time the original or copy would be
5 available to any other party, the deposition officer shall
6 immediately notify all other parties attending the
7 deposition of the request, and shall, upon request by any
8 party other than the party making the original request,
9 make that copy of the full or partial deposition transcript
10 available to all parties at the same time. Stenographic
11 notes of depositions shall be retained by the reporter for
12 a period of not less than eight years from the date of the
13 deposition, where no transcript is produced, and not less
14 than one year from the date on which the transcript is
15 produced. Those notes may be either on paper or
16 electronic media, as long as it allows for satisfactory
17 production of a transcript at any time during the periods
18 specified. At the request of any other party to the action,
19 including a party who did not attend the taking of the
20 deposition testimony, any party who records or causes the
21 recording of that testimony by means of audiotape or
22 videotape shall promptly (1) permit that other party to
23 hear the audiotape or to view the videotape, and (2)
24 furnish a copy of the audiotape or videotape to that other
25 party on receipt of payment of the reasonable cost of
26 making that copy of the tape.

27 If the testimony at the deposition is recorded both
28 stenographically, and by audiotape or videotape, the
29 stenographic transcript is the official record of that
30 testimony for the purpose of the trial and any subsequent
31 hearing or appeal.

32 (q) (1) If the deposition testimony is stenographically
33 recorded, the deposition officer shall send written notice
34 to the deponent and to all parties attending the
35 deposition when the original transcript of the testimony
36 for each session of the deposition is available for reading,
37 correcting, and signing, unless the deponent and the
38 attending parties agree on the record that the reading,
39 correcting, and signing of the transcript of the testimony
40 will be waived or that the reading, correcting, and signing



1 of a transcript of the testimony will take place after the
2 entire deposition has been concluded or at some other
3 specific time. For 30 days following each such notice,
4 unless the attending parties and the deponent agree on
5 the record or otherwise in writing to a longer or shorter
6 time period, the deponent may change the form or the
7 substance of the answer to a question, and may either
8 approve the transcript of the deposition by signing it, or
9 refuse to approve the transcript by not signing it.

10 Alternatively, within this same period, the deponent
11 may change the form or the substance of the answer to
12 any question and may approve or refuse to approve the
13 transcript by means of a letter to the deposition officer
14 signed by the deponent which is mailed by certified or
15 registered mail with return receipt requested. A copy of
16 that letter shall be sent by first-class mail to all parties
17 attending the deposition. For good cause shown, the
18 court may shorten the 30-day period for making changes,
19 approving, or refusing to approve the transcript.

20 The deposition officer shall indicate on the original of
21 the transcript, if the deponent has not already done so at
22 the office of the deposition officer, any action taken by the
23 deponent and indicate on the original of the transcript,
24 the deponent's approval of, or failure or refusal to
25 approve, the transcript. The deposition officer shall also
26 notify in writing the parties attending the deposition of
27 any changes which the deponent timely made in person.
28 If the deponent fails or refuses to approve the transcript
29 within the allotted period, the deposition shall be given
30 the same effect as though it had been approved, subject
31 to any changes timely made by the deponent. However,
32 on a seasonable motion to suppress the deposition,
33 accompanied by a declaration stating facts showing a
34 reasonable and good faith attempt at an informal
35 resolution of each issue presented by the motion, the
36 court may determine that the reasons given for the failure
37 or refusal to approve the transcript require rejection of
38 the deposition in whole or in part.

39 The court shall impose a monetary sanction under
40 Section 2023 against any party, person, or attorney who

1 unsuccessfully makes or opposes a motion to suppress a
2 deposition, unless it finds that the one subject to the
3 sanction acted with substantial justification or that other
4 circumstances make the imposition of the sanction unjust.

5 (2) If there is no stenographic transcription of the
6 deposition, the deposition officer shall send written
7 notice to the deponent and to all parties attending the
8 deposition that the recording is available for review,
9 unless the deponent and all these parties agree on the
10 record to waive the hearing or viewing of an audiotape
11 or videotape recording of the testimony. For 30 days
12 following this notice the deponent, either in person or by
13 signed letter to the deposition officer, may change the
14 substance of the answer to any question.

15 The deposition officer shall set forth in a writing to
16 accompany the recording any changes made by the
17 deponent, as well as either the deponent's signature
18 identifying the deposition as his or her own, or a
19 statement of the deponent's failure to supply the
20 signature, or to contact the officer within the allotted
21 period. When a deponent fails to contact the officer
22 within the allotted period, or expressly refuses by a
23 signature to identify the deposition as his or her own, the
24 deposition shall be given the same effect as though
25 signed. However, on a seasonable motion to suppress the
26 deposition, accompanied by a declaration stating facts
27 showing a reasonable and good faith attempt at an
28 informal resolution of each issue presented by the motion,
29 the court may determine that the reasons given for the
30 refusal to sign require rejection of the deposition in whole
31 or in part.

32 The court shall impose a monetary sanction under
33 Section 2023 against any party, person, or attorney who
34 unsuccessfully makes or opposes a motion to suppress a
35 deposition, unless it finds that the one subject to the
36 sanction acted with substantial justification or that other
37 circumstances make the imposition of the sanction unjust.

38 (r) (1) The deposition officer shall certify on the
39 transcript of the deposition, or in a writing accompanying
40 an audiotaped or videotaped deposition as described in

1 paragraph (2) of subdivision (q), that the deponent was
2 duly sworn and that the transcript or recording is a true
3 record of the testimony given.

4 (2) When prepared as a rough draft transcript, the
5 transcript of the deposition may not be certified and may
6 not be used, cited, or transcribed as the certified
7 transcript of the deposition proceedings. The rough draft
8 transcript may not be cited or used in any way or at any
9 time to rebut or contradict the certified transcript of
10 deposition proceedings as provided by the deposition
11 officer.

12 (s) (1) The certified transcript of a deposition shall
13 not be filed with the court. Instead, the deposition officer
14 shall securely seal that transcript in an envelope or
15 package endorsed with the title of the action and marked:
16 “Deposition of (here insert name of deponent),” and
17 shall promptly transmit it to the attorney for the party
18 who noticed the deposition. This attorney shall store it
19 under conditions that will protect it against loss,
20 destruction, or tampering.

21 The attorney to whom the transcript of a deposition is
22 transmitted shall retain custody of it until six months after
23 final disposition of the action. At that time, the transcript
24 may be destroyed, unless the court, on motion of any
25 party and for good cause shown, orders that the transcript
26 be preserved for a longer period.

27 (2) An audiotape or videotape record of deposition
28 testimony, including a certified tape made by an operator
29 qualified under subparagraph (B) of paragraph (2) of
30 subdivision (l), shall not be filed with the court. Instead,
31 the operator shall retain custody of that record and shall
32 store it under conditions that will protect it against loss,
33 destruction, or tampering, and preserve as far as
34 practicable the quality of the tape and the integrity of the
35 testimony and images it contains.

36 At the request of any party to the action, including a
37 party who did not attend the taking of the deposition
38 testimony, or at the request of the deponent, that
39 operator shall promptly (A) permit the one making the
40 request to hear or to view the tape on receipt of payment

1 of a reasonable charge for providing the facilities for
2 hearing or viewing the tape, and (B) furnish a copy of the
3 audiotape or the videotape recording to the one making
4 the request on receipt of payment of the reasonable cost
5 of making that copy of the tape.

6 The attorney or operator who has custody of an
7 audiotape or videotape record of deposition testimony
8 shall retain custody of it until six months after final
9 disposition of the action. At that time, the audiotape or
10 videotape may be destroyed or erased, unless the court,
11 on motion of any party and for good cause shown, orders
12 that the tape be preserved for a longer period.

13 (t) Once any party has taken the deposition of any
14 natural person, including that of a party to the action,
15 neither the party who gave, nor any other party who has
16 been served with a deposition notice pursuant to
17 subdivision (c) may take a subsequent deposition of that
18 deponent. However, for good cause shown, the court may
19 grant leave to take a subsequent deposition, and the
20 parties, with the consent of any deponent who is not a
21 party, may stipulate that a subsequent deposition be
22 taken. This subdivision does not preclude taking one
23 subsequent deposition of a natural person who has
24 previously been examined (1) as a result of that person's
25 designation to testify on behalf of an organization under
26 subdivision (d), or (2), *pursuant to a court order under*
27 *Section 485.230*, for the limited purpose of discovering
28 pursuant to Section 485.230 the identity, location, and
29 value of property in which the deponent has an interest.
30 This subdivision does not authorize the taking of more
31 than one *subsequent* deposition for the limited purpose
32 of Section 485.230.

33 (u) At the trial or any other hearing in the action, any
34 part or all of a deposition may be used against any party
35 who was present or represented at the taking of the
36 deposition, or who had due notice of the deposition and
37 did not serve a valid objection under subdivision (g), so
38 far as admissible under the rules of evidence applied as
39 though the deponent were then present and testifying as
40 a witness, in accordance with the following provisions:



1 (1) Any party may use a deposition for the purpose of
2 contradicting or impeaching the testimony of the
3 deponent as a witness, or for any other purpose permitted
4 by the Evidence Code.

5 (2) An adverse party may use for any purpose, a
6 deposition of a party to the action, or of anyone who at the
7 time of taking the deposition was an officer, director,
8 managing agent, employee, agent, or designee under
9 subdivision (d) of a party. It is not ground for objection
10 to the use of a deposition of a party under this paragraph
11 by an adverse party that the deponent is available to
12 testify, has testified, or will testify at the trial or other
13 hearing.

14 (3) Any party may use for any purpose the deposition
15 of any person or organization, including that of any party
16 to the action, if the court finds any of the following:

17 (A) The deponent resides more than 150 miles from
18 the place of the trial or other hearing.

19 (B) The deponent, without the procurement or
20 wrongdoing of the proponent of the deposition for the
21 purpose of preventing testimony in open court, is (i)
22 exempted or precluded on the ground of privilege from
23 testifying concerning the matter to which the deponent's
24 testimony is relevant, (ii) disqualified from testifying,
25 (iii) dead or unable to attend or testify because of existing
26 physical or mental illness or infirmity, (iv) absent from
27 the trial or other hearing and the court is unable to
28 compel the deponent's attendance by its process, or (v)
29 absent from the trial or other hearing and the proponent
30 of the deposition has exercised reasonable diligence but
31 has been unable to procure the deponent's attendance by
32 the court's process.

33 (C) Exceptional circumstances exist that make it
34 desirable to allow the use of any deposition in the interests
35 of justice and with due regard to the importance of
36 presenting the testimony of witnesses orally in open
37 court.

38 (4) Any party may use a videotape deposition of a
39 treating or consulting physician or of any expert witness
40 even though the deponent is available to testify if the

1 deposition notice under subdivision (d) reserved the
2 right to use the deposition at trial, and if that party has
3 complied with subparagraph (I) of paragraph (2) of
4 subdivision (I).

5 (5) Subject to the requirements of this section, a party
6 may offer in evidence all or any part of a deposition, and
7 if the party introduces only part of the deposition, any
8 other party may introduce any other parts that are
9 relevant to the parts introduced.

10 (6) Substitution of parties does not affect the right to
11 use depositions previously taken.

12 (7) When an action has been brought in any court of
13 the United States or of any state, and another action
14 involving the same subject matter is subsequently
15 brought between the same parties or their
16 representatives or successors in interest, all depositions
17 lawfully taken and duly filed in the initial action may be
18 used in the subsequent action as if originally taken in that
19 subsequent action. A deposition previously taken may
20 also be used as permitted by the Evidence Code.

21 *SEC. 15. Section 2331 of the Family Code is amended*
22 *to read:*

23 2331. A copy of the petition, together with a copy of
24 a summons, in form and content approved by the Judicial
25 Council shall be served upon the other party to the
26 marriage in the same manner as service of papers in civil
27 actions generally, *except that substitute service on the*
28 *petitioner shall not be allowed without a court order*
29 *authorizing such service.*

30 *SEC. 16. Section 68511.3 of the Government Code is*
31 *amended to read:*

32 68511.3. (a) The Judicial Council shall formulate and
33 adopt uniform forms and rules of court for litigants
34 proceeding in forma pauperis. These rules shall provide
35 for all of the following:

36 (1) Standard procedures for considering and
37 determining applications for permission to proceed in
38 forma pauperis, including, in the event of a denial of such
39 permission, a written statement detailing the reasons for

1 denial and an evidentiary hearing where there is a
2 substantial evidentiary conflict.

3 (2) Standard procedures to toll relevant time
4 limitations when a pleading or other paper accompanied
5 by such an application is timely lodged with the court and
6 delay is caused due to the processing of the application to
7 proceed in forma pauperis.

8 (3) Proceeding in forma pauperis at every stage of the
9 proceedings at both the appellate and trial levels of the
10 court system.

11 (4) The confidentiality of the financial information
12 provided to the court by these litigants.

13 (5) That the court may authorize the clerk of the
14 court, county financial officer, or other appropriate
15 county officer to make reasonable efforts to verify the
16 litigant's financial condition without compromising the
17 confidentiality of the application.

18 (6) That permission to proceed in forma pauperis be
19 granted to all of the following:

20 (A) Litigants who are receiving benefits pursuant to
21 the Supplemental Security Income (SSI) and State
22 Supplemental Payments (SSP) programs (Sections 12200
23 to 12205, inclusive, of the Welfare and Institutions Code),
24 the California Work Opportunity and Responsibility to
25 Kids Act (CalWORKs) program (Chapter 2
26 (commencing with Section 11200) of Part 3 of Division 9
27 of the Welfare and Institutions Code), the Food Stamp
28 program (7 U.S.C. Sec. 2011 et seq.), or Section 17000 of
29 the Welfare and Institutions Code.

30 (B) Litigants whose monthly income is 125 percent or
31 less of the current monthly poverty line annually
32 established by the Secretary of Health and Human
33 Services pursuant to the Omnibus Budget Reconciliation
34 Act of 1981, as amended.

35 (C) Other persons when in the court's discretion, this
36 permission is appropriate because the litigant is unable to
37 proceed without using money which is necessary for the
38 use of the litigant or the litigant's family to provide for the
39 common necessities of life.

(b) (1) Litigants who apply for permission to proceed in forma pauperis pursuant to subparagraph (A) of paragraph (6) of subdivision (a) shall declare under penalty of perjury that they are receiving such benefits and may voluntarily provide the court with their *date of birth and* social security number *or their Medi-Cal identification number* to permit the court to verify the applicant's receipt of public assistance. The court may require any applicant, except a defendant in an unlawful detainer action, who chooses not to disclose his or her social security number for verification purposes to attach to the application documentation of benefits to support the claim and all other financial information on a form promulgated by the Judicial Council for this purpose.

(2) Litigants who apply for permission to proceed in forma pauperis pursuant to subparagraph (B) or (C) of paragraph (6) of subdivision (a) shall file a financial statement under oath on a form promulgated by, and pursuant to rules adopted by, the Judicial Council.

(c) The forms and rules adopted by the Judicial Council shall provide for the disclosure of the following information about the litigant:

(1) Current street address.

(2) Date of birth.

(3) Occupation and employer.

(4) Monthly income and expenses.

(5) Address and value of any real property owned directly or beneficially.

(6) Personal property with a value that exceeds five hundred dollars (\$500).

The information furnished by the litigant shall be used by the court in determining his or her ability to pay all or a portion of the fees and costs.

(d) At any time after the court has granted a litigant permission to proceed in forma pauperis and prior to final disposition of the case, the clerk of the court, county financial officer, or other appropriate county officer may notify the court of any changed financial circumstances which may enable the litigant to pay all or a portion of the fees and costs which had been waived. The court may

1 authorize the clerk of the court, county financial officer,
2 or other appropriate county officer to require the litigant
3 to appear before and be examined by the person
4 authorized to ascertain the validity of their indigent
5 status. However, no litigant shall be required to appear
6 more than once in any four-month period. A litigant
7 proceeding in forma pauperis shall notify the court within
8 five days of any settlement or monetary consideration
9 received in settlement of this litigation and of any other
10 change in financial circumstances that affects the
11 litigant's ability to pay court fees and costs. After the
12 litigant either (1) appears before and is examined by the
13 person authorized to ascertain the validity of his or her
14 indigent status or (2) notifies the court of a change in
15 financial circumstances, the court may then order the
16 litigant to pay to the county such sum and in such manner
17 as the court believes is compatible with the litigant's
18 financial ability.

19 In any action or proceeding in which the litigant whose
20 fees and costs have been waived would have been
21 entitled to recover those fees and costs from another
22 party to the action or proceeding had they been paid, the
23 court may assess the amount of the waived fees and costs
24 against the other party and order the other party to pay
25 that sum to the county or to the clerk and serving and
26 levying officers respectively, or the court may order the
27 amount of the waived fees and costs added to the
28 judgment and so identified by the clerk.

29 Execution may be issued on any order provided for in
30 this subdivision in the same manner as on a judgment in
31 a civil action. When an amount equal to the sum due and
32 payable to the clerk has been collected upon the
33 judgment, these amounts shall be remitted to the clerk
34 within 30 days. Thereafter, when an amount equal to the
35 sum due to the serving and levying officers has been
36 collected upon the judgment, these amounts shall be due
37 and payable to those officers and shall be remitted within
38 30 days. If the remittance is not received by the clerk
39 within 30 days or there is a filing of a partial satisfaction
40 of judgment in an amount at least equal to the fees and

1 costs payable to the clerk or a satisfaction of judgment has
2 been filed, notwithstanding any other provision of law,
3 the court may issue an abstract of judgment, writ of
4 execution, or both for recovery of those sums, plus the
5 fees for issuance and execution and an additional fee for
6 administering this section. The county board of
7 supervisors shall establish a fee, not to exceed actual costs
8 of administering this subdivision and in no case exceeding
9 twenty-five dollars (\$25), which shall be added to the writ
10 of execution.

11 (e) Notwithstanding subdivision (a), a person who is
12 sentenced to imprisonment in a state prison or confined
13 in a county jail and, during the period of imprisonment
14 or confinement, files a civil action or notice of appeal of
15 a civil action in forma pauperis shall be required to pay
16 the full amount of the filing fee to the extent provided in
17 this subdivision.

18 (1) In addition to the form required by this section for
19 filing in forma pauperis, an inmate shall file a copy of a
20 statement of account for any sums due to the inmate for
21 the six-month period immediately preceding the filing of
22 the civil action or notice of appeal of a civil action. This
23 copy shall be certified by the appropriate official of the
24 Department of Corrections or a county jail.

25 (2) Upon filing the civil action or notice of appeal of a
26 civil action, the court shall assess, and when funds exist,
27 collect, as a partial payment of any required court fees, an
28 initial partial filing fee of 20 percent of the greater of one
29 of the following:

30 (A) The average monthly deposits to the inmate's
31 account.

32 (B) The average monthly balance in the inmate's
33 account for the six-month period immediately preceding
34 the filing of the civil action or notice of appeal.

35 (3) After payment of the initial partial filing fee, the
36 inmate shall be required to make monthly payments of 20
37 percent of the preceding month's income credited to the
38 inmate's account. The Department of Corrections shall
39 forward payments from this account to the clerk of the



1 court each time the amount in the account exceeds ten
2 dollars (\$10) until the filing fees are paid.

3 (4) In no event shall the filing fee collected pursuant
4 to this subdivision exceed the amount of fees permitted
5 by law for the commencement of a civil action or an
6 appeal of a civil action.

7 (5) In no event shall an inmate be prohibited from
8 bringing a civil action or appeal of a civil action solely
9 because the inmate has no assets and no means to pay the
10 initial partial filing fee.

11 *SEC. 17.* Section 45014 of the Public Resources Code
12 is amended to read:

13 45014. (a) Upon the failure of any person to comply
14 with any final order issued by a local enforcement agency
15 or the board, the Attorney General, upon request of the
16 board, shall petition the superior court for the issuance of
17 a preliminary or permanent injunction, or both, as may
18 be appropriate, restraining the person or persons from
19 continuing to violate the order or complaint.

20 (b) Any attorney authorized to act on behalf of the
21 local enforcement agency or the board may petition the
22 superior court for injunctive relief to enforce this part,
23 any term or condition in any solid waste facilities permit,
24 or any standard adopted by the board or the local
25 enforcement agency.

26 (c) In addition to the administrative imposition of civil
27 penalties pursuant to this part and Article 6
28 (commencing with Section 42850) of Chapter 16 of Part
29 3, any attorney authorized to act on behalf of the local
30 enforcement agency or the board may apply, to the clerk
31 of the appropriate court in the county in which the civil
32 penalty was imposed, for a judgment to collect the
33 penalty. The application, which shall include a certified
34 copy of the decision or order in the civil penalty action,
35 constitutes a sufficient showing to warrant issuance of the
36 judgment. The court clerk shall enter the judgment
37 immediately in conformity with the application. The
38 judgment so entered *shall include the amount of the*
39 *court filing fee which would have been due from an*
40 *applicant who is not a public agency, and has the same*

1 force and effect as, and is subject to all the provisions of
2 law relating to, a judgment in a civil action, and may be
3 enforced in the same manner as any other judgment of
4 the court in which it is entered. ~~Any, provided that the~~
5 ~~amount of the unpaid court filing fee shall be paid to the~~
6 ~~court prior to satisfying any of the civil penalty amount.~~
7 *Thereafter, any civil penalty or judgment recovered shall*
8 *be paid, to the maximum extent allowed by law, to the*
9 *board or to the local enforcement agency, whichever is*
10 *represented by the attorney who brought the action.*

11 *SEC. 18. Notwithstanding Section 17610 of the*
12 *Government Code, if the Commission on State Mandates*
13 *determines that this act contains costs mandated by the*
14 *state, reimbursement to local agencies and school*
15 *districts for those costs shall be made pursuant to Part 7*
16 *(commencing with Section 17500) of Division 4 of Title*
17 *2 of the Government Code. If the statewide cost of the*
18 *claim for reimbursement does not exceed one million*
19 *dollars (\$1,000,000), reimbursement shall be made from*
20 *the State Mandates Claims Fund.*

